

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2761 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJ STATE ROAD TRANSPORT CORPN

Versus

HARUN KALA KAPADWANJI

Appearance:

MR SM MAZGAONKAR for Petitioner

MR HK RATHOD for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/09/97

ORAL JUDGEMENT

1. Challenge has been made by the petitioner-Corporation to the award of the Labour Court, Junagadh dated 27th June, 1991 passed in Reference No.749/90 under which the respondent-workman was ordered to be paid 50% backwages for the period of dismissal.
2. The contention of the counsel for the petitioner is that the Labour Court has found that the

respondent-workman has committed some misconduct, and as such, the award of 50% backwages is wholly arbitrary and unjustified.

3. On the other hand, the counsel for the respondent-workman contended that it is a case where a lenient view has been taken by the Labour Court. Once the approval has not been granted to the action of the management of the dismissal of the workman by the Labour Court then the dismissal is void-ab-initio, and as such, the workman should have been awarded full backwages.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

5. The Labour Court has declined to approve the action of the Corporation to terminate the services of the respondent-workman on which there is no dispute. The respondent-workman has approached to this Court when despite of declining approval to the action of the management by the Labour Court he was not reinstated back in service and under the direction of this Court he has been reinstated back in service. So the dispute pertains to the claim during which the respondent-workman was not in service and the amount of arrears of backwages to be paid to him.

6. The counsel for the petitioner is unable to point out any illegality in the award of the Labour Court. On the other hand, I find sufficient merits in the contention of the counsel for the respondent-workman that the Labour Court has taken a lenient view in the matter. It is not for the workman to satisfy the Court that he was elsewhere in gainful employment or what efforts have been made by him to take the employment during the period of dismissal. That approach is wholly arbitrary and unjustified. But as the respondent-workman has not challenged the award, this Court cannot enhance the amount of backwages granted to the respondent-workman. However, this petition is wholly devoid of any substance and the same is dismissed. Rule discharged. The petitioner is directed to pay Rs.1000/- by way of costs of this petition to the respondent.
